IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

MFA.No. 788 of 1998()

OPMV.867/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY
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APPELLANT: /PETITIONER

SWAPNA RAJ (MINOR)' DURGA MOTTAMMAL, POST, CANNAANORE REPRESENTED BY FATHER AND NATURAL GUARDIAN RAJAN PALAKKIL KALIYATH

BY ADV. SRI.M.M.SAIDU MUHAMMED

RESPONDENTS: /RESPODNENTS
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1. PUTHIYA PURAYIL KRISHNAN S/O GOVINDAN H.NO.38/91 EZHOM AMSOM AND DESOM, CANNANORE DISTRICT

2. P.P.KRISHNANA S/O GOVINDAN EZHOM -DO-: (DELETED FROM THE PARTY ARRAY AS PER ORDER DT.19-12-2006 ON I.A. 2400/2006)

3. NATIONAL INSURANCE COMPANY LTD. HOSPITAL ROAD, PAYYANNUR

BY ADV. SRI.P.R.RAMACHANDRA MENON

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & M.N.KRISHNAN J.J

M.F.A. No.788 OF 1998

Dated this the 22nd day of January 2007

JUDGMENT

Krishnan.J

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal,Thalassery in O.P (MV) 867/1996. The claimant was aged 6 years at the time of the accident, sustained fracture of the leg besides a crush injury. The Tribunal has awarded a total compensation of Rs. 45,000/- and it is against that decision the present appeal is filed. The Insurance Company has also entered appearance. Heard both sides. A perusal of the award would show that the claimant has sustained fracture of tibia and fibula besides injury on the right foot. Skin grafting was also done. He had undergone treatment for a considerable length of time. According to the appellant she was a girl who was blessed with great artistic taste and the injury had resulted in the end of the same. The Tribunal has awarded a compensation of Rs.10,000/- as compensation for pain and suffering . Considering the fact that the girl had sustained bad crush injury besides fracture of both bones of the leg and the period of treatment, it is certain that she would have suffered excruciating pain and therefore we award an additional amount of Rs.5,000/- under the head of pain and suffering.The Tribunal accepted the disability certificate of 8% and awarded a sum of

Rs.15,000/- under the head of permanent disability. If 8% is the disability, and Rs. 15,000/- is taken as the notional income then by applying the multiplier of 15 the claimant is entitled to get Rs.18,000/- i.e 3,000/- more. The learned counsel for the appellant also had shown the photograph of the child wherein on account of the skin grafting, there had been considerable difficulties and the child had suffered loss of amenities and enjoyment in life She was not in a position to play or participate in any programme Therefore we feel it only just and proper to give an additional amount of Rs.5,000/- under the head of loss of amenities and enjoyment in life. Therefore the claimant will be entitled to an additional amount of Rs. 13,000/-

2. This M.F.A. is partly allowed. The claimant is awarded an additional compensation of Rs.13,000/- with of 7% interest on the said sum from the date of petition till realisation. The Insurance Company is directed to deposit the said sum within a period of two months from the date of receipt of a copy of the judgment.

K.S.RADHAKRISHNAN,JUDGE

M.N.KRISHNAN ,JUDGE

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